

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MARK ANTOINE FOSTER,

No. 07-5030 MMC

Plaintiff,

**ORDER DENYING PLAINTIFF'S MOTION
FOR APPOINTMENT OF COUNSEL**

v.

OPERATION DIGNITY, INC., et al.,

Defendants

Before the Court is plaintiff's motion, filed November 9, 2007, for appointment of counsel pursuant to 42 U.S.C. § 3613(b)(1). Having considered the motion, the Court rules as follows.

Because plaintiff will not be subjected to any possible loss of physical liberty if he does not prevail in the instant action, he has no right to appointment of counsel, see Lassiter v. Dep't of Social Services, 452 U.S. 18, 25 (1981), nor are funds available from the district court to compensate appointed counsel. In an action alleging a violation of the Fair Housing Act, however, a district court has discretion to appoint pro bono counsel. See 42 U.S.C. § 3613(b)(1). In considering a motion for appointment of counsel, a district court considers three factors: "(1) the plaintiff's financial resources, (2) the efforts made by the plaintiff to secure counsel, and (3) whether the plaintiff's claim has merit." See Bradshaw

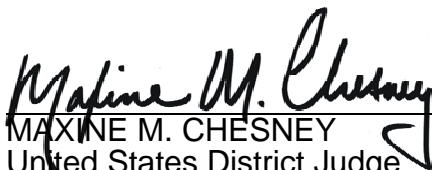
1 v. Zoological Soc. of San Diego, 662 F. 2d 1301, 1318 (9th Cir. 1981) (setting forth factors
2 appropriate in considering motion for appointment of counsel for purposes of Title VII
3 claim); Zhu v. Countrywide Realty Co., 148 F. Supp. 2d 1154, 1157 (D. Kan. 2001)
4 (holding factors applicable to Title VII claim also applicable to motion for appointment of
5 counsel for Fair Housing Act claim).

6 In light of the Court's prior finding that plaintiff is entitled to proceed in forma
7 pauperis herein, plaintiff has made a sufficient showing with respect to his lack of financial
8 resources. Plaintiff, however, has not identified any action he has taken to secure counsel,
9 nor has plaintiff shown that his claim has merit.

10 Accordingly, plaintiff's motion is DENIED.

11 **IT IS SO ORDERED.**

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13 Dated: November 19, 2007

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MAXINE M. CHESNEY
United States District Judge